



Lamoine Board of Selectmen

606 Douglas Hwy
Lamoine, ME 04605
(207) 667-2242
town@lamoine-me.gov

Minutes of March 4, 2010

Chair Jo Cooper called the meeting to order at 7:00 PM

Present were: Selectmen Kermit Theall, Gary McFarland, Cynthia Donaldson, Richard Fennelly Jr., S. Josephine Cooper; Administrative Assistant Stu Marckoon, Assessors Terry Towne, Michael Jordan, Jane Fowler, Robert & Lizzy Alvarez, Bill Butler, Andy Barry, Marjorie, Sam, & Teddy Nankervis, Wanda Jordan, Jim & Sara Willis, Linda & Kristy Eaton, Bill & Duncan Haass, Richard McMullen, Bill Brann, Eric Cooper, David & Kelly Henry and David Herrick Sr.

Agenda Review – There were no changes to the printed agenda and addendum.

Presentation by 8th Grade – Jo said the Board especially likes to hear about positive things going on with the town's young folks. The members of the 8th grade introduced themselves, as did the Board. Sara Willis said the students are conducting several fund raisers for their trip to go to Fun Town, Portland and Boston. Kelly Henry said there is a lot of team work going on. Richard asked where things stand. Miss Willis said they have \$3,800 on hand and need \$5,173. She said the bus costs \$2,000. Jo said the students have done a lot of planning and they had to get it approved by the school system. She said they had thought about going by train, but that became too complex. Richard said he would make a contribution. Kristy Eaton said they would be conducting more bottle drives. Miss Henry said they would sell concessions at the baseball and softball games. Jo said she was very impressed by the class. Richard urged others to contribute to the effort. Kermit asked how many students were going. The class said they had 16 members. Miss Henry said they had a lot of class meetings and took votes on where to go for the class trip. She said they've done a lot on their own. Richard encouraged the students to get involved with local government.

Minutes, February 11, 2010 – Richard suggested several additions to the discussion about town meeting voting methods. Cynthia presented some minor changes. Richard moved to approve the meetings as corrected. Gary 2nd. **Vote in favor was 5-0.**

Minutes, February 18, 2010 - Jo moved to approve the minutes as written. Richard 2nd. **Vote in favor was 4-0 (Donaldson abstained).**

Expenditure Warrant 17 – Selectmen signed warrant 17 for \$315,794.32. Stu noted that \$300,000 of the warrant was a transfer into investments. Cynthia asked what the editing computer was. Stu explained it was the computer the Selectmen authorized purchasing for the cable TV system, which arrived earlier in the day.

Cash & Budget Report – Stu reported that the fees on the investment management account exceeded the interest earned for the first time that he could remember. He said he called the investment company and confirmed that none of the various securities had payouts during February. Cynthia said she appreciated receiving the 2009 revenue printout from the same date for comparison purposes.

Abatements – Selectmen signed two abatements for personal property tax assessed to Barry Norris in appreciation for his donations of vehicles and services to the Lamoine Fire Department. A letter to Mr. Norris was also signed.

Snow Plowing Bids – Selectmen opened the four bids received for the proposed snow plowing contract and read them as follows:

Bidder Name	Roads Total	School Total	Grand Total
Barry's Trucking	\$277,650.00	\$9,750.00	\$287,400.00
RF Jordan & Sons	\$246,000.00	No bid	\$246,000.00
Richard McMullen	\$261,000.00	\$3,000.00	\$264,000.00
Nankervis Trucking	\$279,000.00	\$6,000.00	\$285,000.00

Jo noted there was quite a wide range of bids. There was a discussion about the RF Jordan bid and whether it was responsive to the bid ad. Jo suggested tabling the award until the next meeting so more information could be gathered. Cynthia asked if seeking more information was proper. Stu said he would like to have clarity on what the bids actually mean. (Richard had to leave the meeting briefly to attend to a work emergency).

Bill Brann asked if the plowing had been broken out separately between the town roads and parking lots and the school in the past. Jo said it had not, but now the RSU pays for the school plowing. Brett Jones said there is potential unfairness in having RF Jordan alter their bid. A discussion followed on the bid process.

Jo said it might be a shame to not consider the low bid because it's from a well known contractor. Kermit said the board can't accept it. Gary said the bid was not complete. Cynthia said she's not sure she knows what putting down "N/A" means. Mr. Brann said the bid specifications were very specific. Jo said because three Selectmen (Theall, Donaldson, McFarland) say they would reject the Jordan bid, it is out.

The Board reviewed the equipment lists submitted, and asked about Richard McMullen's equipment. Mr. McMullen said his business is growing, and he is buying a bigger truck. He said he has only seasonal employees now, but many are looking for year round work. He said he has some equipment on hand, but will buy some more. Kermit said Mr. McMullen has worked for him in the past and has done a fine job.

Jo said there are a lot of different things to balance out. She said the Board is trying to encourage local business, and there needs to be a discussion. She said the town has a long history and is very satisfied with Nankervis Trucking. Kermit noted the Board is trying to develop more local business. He said he's leaning toward Mr. McMullen because he is trying to grow his business. He said Nankervis has done a fantastic job. (Richard returned to the meeting).

Richard said as much as he appreciates the work from Nankervis, and would hate to see the relationship end, but it is \$21,000 in taxpayer money. Jo said she trusts Mr. McMullen, but she had a concern. She said she doesn't want to put a local business

under, and the town needs to be careful. She said the town has a good experience with Nankervis and Mr. McMullen has done good work too. Sam Nankervis said this job has a tremendous amount of responsibility associated with it. Teddy Nankervis said his company has good backup because they plow neighboring towns too. Sam Nankervis said the equipment has to be ready to go when it's needed. Kermit noted that he has always tried to grow his business, and that gives him the excitement to keep going.

Jo asked Mr. McMullen what kind of research he had done before making the bid. Mr. McMullen answered that he looked at insurance, but there are only so many known costs. He said he knows the cost of insurance and the cost of sand, the predicted amount of sand use and the salt ratio. Jo asked if Mr. McMullen had talked with others about the roads that people rely on. Mr. McMullen said he talked with lots of experienced people about plowing, but there are a lot of variables. Jo said she wanted to make sure Mr. McMullen had a realistic picture. Mr. McMullen said he figured out what he wanted to make, and he doesn't think the bid will end up with him plowing the roads for nothing, but it was hard to say. Jo said she hopes Mr. McMullen has the necessary manpower and equipment.

Michael Jordan said he was not positive that a contractor could keep up with the roads with just one large truck. Sam Nankervis said they run 10-wheelers because of the sand. Mr. Jordan said with one large truck on all the town roads, it would be a 4-hour turnaround time at best. Teddy Nankervis said the contractor previous to them had two large trucks. Richard said the contractor has the obligation to meet, and said if a truck breaks, that could be a problem. Mr. McMullen said he is planning to purchase another truck. He said the F-8000 is comparable to the trucks used by the Maine DOT. He said he also plans to get a Chevy 4500 which is also used by the MDOT. He said he probably would be buying the trucks regardless of whether he won this contract, but if he does get the contract, he would buy the plow gear to go with them.

Jo said she applauds the bidders, and it stinks for the board to have to make a decision. She said she is a little uncomfortable with trying someone new, and she's not convinced it's the right way. Richard said he has enjoyed the work by Nankervis, but there is a bid process, and asked if it is not followed, why would anyone submit a bid. He said he understands the low bidder is a new contractor, and that is a concern. He said the contractor has an obligation to meet the commitment, and will have to have the means to address that.

Stu asked Mr McMullen about labor and qualifications. Mr. McMullen said one of his workers has a CDL License. Cynthia said it is a big job, and a lot of people depend on the roads being maintained safely. She said it's a big leap to jump into something like this. She said she didn't think she could go wholeheartedly with Mr. McMullen.

Jo said she was concerned that it could cost the town more than the \$21,000 difference if things go wrong. She said she's thrilled to have choices, but it's difficult to make a decision.

Mr. Brann said Mr. McMullen maintains the lawn across the road from him, and he has seen that business grow. He said Mr. McMullen gets the job done with high quality. He said he understands the concern regarding the newness of the contractor but said it's not a stand-alone contract. Jo said she has seen the same quality, but she doesn't want to experiment with the safety of the town. She said she's concerned about personnel and equipment. Gary said Nankervis is a tough act to follow. He said he has also seen Mr. McMullen grow reasonably over the years and he is comfortable with that. He said it's a tough decision. Richard said everyone started somewhere once. Jo said the town and Mr. McMullen could be in a bind if it's a bad winter. Richard said comparing the contractors is like comparing apples and oranges. Sam Nankervis said they bid from experience, not just to win the contract.

Kermit moved to award the snowplowing contract to Richard McMullen. Richard 2nd. Jo said she supports Richard 100% but has to vote the way she thinks is right. **Vote in favor was 3-2 (Cooper, Donaldson opposed).**

Photocopier Bid – The Selectmen opened the many bids received in response to a photocopier purchase and read them as follows:

Bidder	Copier Described	Copier Cost	Maint Cost	75,000 Copies (1 st Year)
Kinney Office	Toshiba 2330 Color	\$5,495.00	\$443	\$443.00
*Kinney Office	Toshiba 2008 353, 352 or 350 (refurbished)	\$1,995.00	\$443	\$443.00
Kinney Office	Toshiba 455	\$4,995.00	\$443	\$443.00
Offtech	Xerox #5135 (refurbished 2009)	\$4,770.00	\$288	\$1,107.00
IKON Office Solutions	Ricoh New MPC 3300	\$7,879.00	\$328.30bw \$4,900 color	\$351.75 b&w \$5,250 color
IKON Office Solutions	Ricoh MP 3351	\$5,219.00	\$328.30	\$351.75
Transco	Xerox #7232	\$6,295.00	\$517.50	\$517.50
*Transco	Xerox #5135	\$3,795.00	\$517.50	\$517.50
*Oce	Oce IM4512	\$2,645.00	\$0.008/pg	\$600.00
Budget Document Technology	Konica C353 Color 2007 (refurbished)	\$3,795.00	.007/b&w .055/pg color	\$525.00b&w \$4,125.00 color
Budget Document Technology	Konica 361 (New)	\$4,570.00	.0035/pg	\$262.50

Stu suggested picking the three marked with "*" for a demonstration with a recommendation from the staff. Jo so moved. Richard 2nd. **Vote in favor was 5-0.**

Cable TV Committee – Jo gave a quick explanation that the Selectmen were trying to meet with all the committees at some point during the year. She said she recently attended a Selectmen's meeting in a town that has cable, but does not utilize the channel the way Lamoine does. She thanked those present for taking the time to do it. She said the equipment is pretty cool. Brett Jones thanked the Selectmen for their support. He said he enjoys that the funding is not tied to the property tax. He said the cable system has spent a lot of money, and people seem to like the product.

Jo said the channel has been a benefit to the town. She said it takes a lot of time. Mr. Jones said Stu has the biggest burden; he said he just puts stuff together. Jo said there is a lot of potential for productions, especially with local history. Mr. Jones said the new computer will allow the committee to do that. Bill Butler said he produced a demonstration video that he would show to the Board after the meeting.

Richard asked if the mobile equipment is working. Mr. Butler said that has grown as well, and people can hear the productions a lot better. He said there are now two cameras. Jo asked about tapping the students for participation. Mr. Butler said he helped the students produce a play which aired last year. He said it's a chance to put the laptops to use. A discussion followed about volunteers.

Assessors – Property Tax Review Board – Board of Assessors Chair Jane Fowler said they were requesting permission to consult with a tax law attorney in regard to a recent case before the State Board of Property Tax Review. Cynthia said she would favor that, but the town policy says to use the town attorney. She said the assessors are asking for specific expertise. Richard said he attended the Assessors' meeting last night and noted the policy said town attorney.

William Haass said most of the request has to do with his mother's case and a tree growth penalty. He reviewed the history of the case and said his mother is in the dark about the whole matter. He read a letter from the Maine Forest Service regarding forester Theresa Davis. He said his mother is very upset, and he has tried to talk with everyone about it. He said his mother doesn't know what she has done wrong. He said he's not sure what happened in Augusta, but he doesn't think the town should pay for an attorney. He said the town didn't tell his mother what had to be done, and that was not helpful. He said it's getting to be a tug of war. He said nothing is being done on the property in question.

Jo said she's not an expert on the situation, and she would rely on the assessors to handle things. She said she was distressed hearing Mr. Haass's story. She said the town would try to figure things out and she doesn't want to cause unnecessary distress. She said she hopes everyone is trying to do the right thing. Mr. Haass said no one would talk to him about it. He asked why the town thinks it has to handle this with a lawyer. A short discussion followed about why a specialized attorney is preferred.

Assessor Terry Towne said it's unfortunate that the Selectmen are not fully informed on all of this, and that he could not inform them because of the nature of the matter. He said there has been no written decision yet from the State Board of Property Tax

Review. He said it's a legal matter still and the Board of Assessors really can't talk about it in public. He said the Assessors would like to consult an expert. Jo asked why the Assessors need to discuss this with an attorney. Mr. Towne said because it's a legal matter.

Richard said it's difficult for him to tell the Assessors to spend money on an attorney who is not the town attorney. Mr. Towne said there is a process that needs to take place and it needs to take place correctly. Jo said she didn't understand why the town needs an attorney at this point. A short discussion followed.

Mr. Towne said the Assessors are asking to consult with a tax law attorney in order to do the right thing. Richard said until there is a decision rendered by the State Board of Property Tax Review, what is the rush to get an attorney. Mr. Towne said after the decision is sent, time would have been lost. Jo asked whether it was the feeling of the Assessors that no matter what happens, do they feel the need for an attorney. Mr. Towne said he didn't know when the decision will be sent. He said the Property Tax Review Board didn't even hear the case until a year after it had been filed. He said it has been a mess from the state side, and he wants to be prepared to do the right thing.

Gary asked whether it has been determined whether the tree growth status is correct. Mr. Towne said he could not discuss that. He said the Selectmen and Assessors are in a tough situation because not much can be discussed. Cynthia said she agreed that it's not appropriate to discuss a lot, and the case is not yet in the laps of the Selectmen. She said the Assessors are just regular people, and they need a resource to help them do things correctly. Mr. Towne said if the assessors are able to get a consultation then they could give the full story to the Selectmen, and the Selectmen could make a final decision on whether to continue.

Richard referred to LD 1635 currently being debated in the Maine Legislature. Jo said this is a small town, and decisions need to be made as to whether to hire a tax law attorney. Assessor chair Jane Fowler said they're waiting to hear from the Board of Property Tax Review, and they need a legal consultation, but they can't go into detail just yet. Jo asked why they couldn't wait for the decision. A short discussion followed regarding past Property Tax Review Board procedure. Mr. Towne said the Selectmen will just have to trust the Assessors.

Richard said he is concerned about making a decision without a clear direction, and whether no decision is some sort of clear direction. Mr. Towne said a no decision is even more complicated and a heated discussion followed.

Jo said the Selectmen need to know what they have to deal with. She said she is feeling hamstrung, and understands that the Assessors can't fully explain why. She said the Selectmen will answer whether the Assessors can consult with a tax law attorney or with the town attorney. Mr. Jones said it might actually cost less with a specialist. Gary asked whether one meeting with a tax attorney would answer the Assessors questions. Mr. Towne said he thought so. He said he thinks an attorney can get the town to a point to resolve things.

Mr. Haass said this is not Washington DC or New York City, and wondered why all this couldn't be handled here. Jo said she would vote to authorize just one meeting, and if the Assessors think they need more, they would have to come back to the Selectmen. Richard said he wouldn't support that because he wants to wait for the decision from the Property Tax Review Board.

Cynthia moved to approve the Assessors' request for a one time consultation with the tax law attorney. Kermit 2nd. Jo said she wants the assessors to understand this is for a one time consultation. Mr. Towne said that was very clear. Kermit said the town needs to cover itself. He said he hoped the end result will resolve this.

Mr. Haass said elected officials should be here to help people. He said his mother is going to be dragged through this some more. He said she would have done whatever she needed to do and is upset by it. A short discussion followed about small towns.

Jo said she would support the motion one time, but she is uncomfortable. **Vote in favor was 3-0 (Fennelly, McFarland opposed).**

Richard said he is not unsupportive, but he would rather see the finding from the State Property Tax Review Board before spending taxpayer money on an attorney.

Meeting with Road Commissioner – Jo said there are a number of immediate topics and the road commissioner is free to meet with the Selectmen at any time. She said trees have become an issue. Gary said he received a call from a Mill Road resident in regard to removal procedures for trees that blew down in a recent storm. He said he didn't know the answer to the man's question, but that the man was upset that the town was not immediately chipping the tree debris. Gary said he talked with both Mike and Stu, and the Mill Road resident had placed the brush from a tree that fell in his yard into the road. He said the man was not happy with the apparent policy of putting tree remains off to the side of the road. He said the Mill Road resident hoped the Selectmen would review that policy tonight and wanted the town to purchase a chipper for all to use. Gary said he would get back to the Mill Road resident tomorrow in regard to the policy and chipping. Jo noted that Seal Point Road was in rough shape in terms of trees falling in the road.

Road Commissioner Michael Jordan said the Mill Road case was not brush that had fallen on the side of the road, but the material dragged into the travel lane by the individual who spoke with Gary was the remains of a tree that fell onto a lawn. Jo said she'd read the e-mail and there was a brief discussion of the situation.

Jo said her concern was safety, especially with snow predicted after the road was partially blocked by the brush. Mr. Jordan said he'd never seen anyone pile brush in the road before. Richard said the town needs to be clear about how to handle things. He said the owner of the property from where the tree fell owns the tree and its brush. He said the town does not have a public works department, and even if a tree falls into a public way, it does not relieve the property owner of the ownership of both the tree and

the brush. He said it needs to be made clear that it's the property owner's tree and the property owner should not expect the town to have to remove it. Jo said if the property owner would like a list of resources of people who could remove the brush the town could make up a list of contractors.

Gary said the Mill Road resident was concerned regarding the potential fire hazard. Mr. Jones said the trees were cut out of the travel lanes at approximately 2:00 AM the previous Friday morning with the wind blowing. He said the fire department cleared the roads to deal with the emergency. Richard said the fire department was removing a public hazard; the trees are still the property owner's problem. Kermit urged people to spend time with the fire department to see what kind of conditions they volunteer in.

The Board discussed the need for a written policy, and asked that a simple one be drafted for the next meeting, along with a list of contractors. There was a short discussion about the conditions of many trees in town. Kermit noted that the folks in his neighborhood watched out for each other. Cynthia suggested that something about fallen trees be included in the Welcome to Lamoine booklet.

Gary said he would respond to the Mill Road resident and thank him for his concern and state that the town would develop a written policy.

Road Posting Authority – Cynthia moved to authorize the road commissioner to post the local roads that need it. Kermit 2nd. **Vote in favor was 5-0, the authority order was signed.**

Storm – Stu reported that he filled out a FEMA Form 7 for debris removal costs from the aforementioned storm, but he doubted the county would qualify for federal disaster aid. He asked about removing some of the debris that came down along the road shoulders and ditches. Selectmen asked to get a price first. Stu reported he had asked David Herrick if he was available for hire to run a chipper. Mr. Herrick told Selectmen he was. Jo moved to authorize the Road Commissioner to hire David Herrick and rent a chipper for two days worth of debris removal. Kermit 2nd. **Vote in favor was 5-0.**

Dog Problem – Mr. Herrick said he's had an ongoing problem with his neighbor's dog running loose and bothering his property. He said he's not had any satisfaction with the Animal Control Officer who's not been able to catch the offending dog, which mostly shows up at night. There was a brief discussion about the situation. Stu said a written complaint could be made out and the ACO could issue a ticket. There was a brief discussion about that process.

ACO Investigation – Stu reported the Animal Control Officer and the State Animal Welfare investigator visited a farm on Sugarbush Drive and found that conditions improved markedly between the first and second visits and the farm was in compliance with state laws.

Chickadee Lane – Code Enforcement – Stu reported the notice of violation has been delivered to the owner of the property on Chickadee Lane where a permitted but uninspected camp had burned. He said the property owner is working with the CEO.

Town Meeting – There was a discussion on whether to have an informational meeting on the proposed Shellfish Ordinance. Selectmen set April 1, 2010 at 7PM for such a meeting. Stu said he was awaiting a final version.

Referendum Voting – Selectmen said they would prefer to defer the discussion on that until a later meeting. There was no objection.

AFG Grant – Stu reported the fire department has been awarded the grant and a request for proposals will be drawn up soon.

Water Tank at Fire Station – Stu reported the fire department has proposed a storage tank to be fed by the Cold Spring Water Company for refilling trucks after training or a fire with clean water. He said the Water Company was receptive to the idea. He said the project is still a year or two off.

Eagle Scout Resolve – Selectmen signed a certificate of commendation for Will Dickey who will receive his Eagle Scout badge on March 14, 2010. The Board asked to meet with Mr. Dickey so he can show off his work.

No Sort Recycling – Stu said the proposal from Pine Tree Waste does not include cardboard. He suggested tabling the matter. Cynthia said she had a lot of questions about the response to the proposal from MRRA. Stu said he could invite MRRA to a future meeting. No action was taken.

Development – Stu reported he met with two gentlemen from the University of Maine in regard to encouraging development. He said they felt the Selectmen should get an idea from the town on whether that is desired. He said they mentioned updating the comprehensive plan and holding a facilitated meeting. Mr. Jones said rezoning some areas might be helpful, as well as extending sewer and water lines from Ellsworth. There was some discussion about looking at ordinance revisions.

Broadband – Jo said she spoke at length with the person from the ConnectME program. Stu reported that Red Zone had apparently hooked up the homes on Lydia's Lane.

Cell Tower – Stu reported that apparently Verizon is waiting for one more pole to be installed so power could be hooked up before moving ahead with installing the tower. He said he has written to Verizon in regard to assigning a physical address and inquiring about the rental payment that was due after granting of the building permit.

Request from Town of Oxford – Selectmen took no action on a request from the Town of Oxford for support of a referendum to allow a casino in Western Maine.

Sale of Wood at Cell Tower Site – Stu reported that Greg Mannisto has offered \$400 for the wood at the cell tower site as long as he can process on site. Kermit moved to accept the offer, Gary 2nd. **Vote in favor was 4-0.**

Radar Trailer – Stu reported the town has won the MDOT speed radar trailer for 2-weeks and it will be here beginning September 13th. There was a very brief discussion about where to place it.

Next Meetings – The next regular meeting will be March 18, 2010. Stu asked if the planned meeting on April 15th could be a brief organizational meeting beginning at 5:30 PM because he has a scheduling conflict. There was no objection.

There being no further business, the meeting adjourned at 9:59 PM

Respectfully submitted,

Stu Marckoon, Adm. Asst.

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